IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 10839 of 2004

Between:

M.Kishan Rao, s/o.Venkat Rao,
Secretary PACS Ltd., Vedira, Mandal Ramadugu, Karimangar Dist.

..... PETITIONER

AND

1 The Divisional Co-operaive Officer, Karimangar (Division) Karimnagar Dist.
2 The Person-in-Charge/Chairperson PACS Ltd., Vedira post, Mandal Ramadugu, Karimanagar Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly in the nature of writ of Mandamus declaring the order of 1st respondent in Rc.No.746/2000 dated 30-5-2004 directing the 2nd respondent to suspend the petitioner from service as illegal, arbitrary, without jurisdiction and contrary to section 59 (1) of the APCS. Act, 1964 and consequently direct the respondent to continue the petitioner in service.

Counsel for the Petitioner:MR.S.SIVA PRASAD

Counsel for the Respondent No.1: GP FOR COOPERATION

Counsel for the Respondent No.2 : None appeared

The Court made the following :

O R D E R:

The petitioner who worked as Paid Secretary in the 2nd respondent Society questions the impugned proceedings of the Deputy Registrar of Co-operative Societies, Karimnagar, dated 30.05.2004, directing the Person-in-charge/Chairman of the P.A.C.S.Limited, Vedira Mandal, Karimnagar District, to place the petitioner under suspension and initiate disciplinary proceedings against him, for causing several irregularities with regards to mis-using the funds of the Society.

It is the case of the petitioner that the respondent authorities conducted audit in the year 1998-99 and pointed out some irregularities against the President of the Society. There after, on an enquiry conducted by the Enquiry Officer, the authority passed orders against the President of the Society, fixing the liability of Rs.3,42.000/-. Though the petitioner is not connected with the business transactions of the Society, surcharge proceedings were issued against him on the ground that he was under the control of the President of the Society.

The learned counsel appearing for the petitioner submits that as no enquiry proceedings are pending against the petitioner and as he is in no way concerned with the business of the Society, the question of issuing directions under Sections

59(v) of the Andhra Pradesh Co-operative Societies Act does not arise.

In the showcause notice, dated 23.09.2003 issued by the Deputy Registrar of Cooperative Societies, it is specifically stated that the petitioner being the Chief Executive of the Society, has failed to bring to the notice of the higher authorities with regard to he mis-utilisation of the funds of the Society. The fertilizers and pesticide trader P.Malla Reddy owes huge amounts to the Society, whereas the Secretary, Primary Agricultural Cooperative Credit Society Limited, Vedira has issued a bearer cheque with the joint signature of the President bearing No.510218, dated 17.06.1997, for Rs.2,00,000/- to P.Malla Reddy, instead of issuing Account Payee Cheque, which was encashed at Co-operative Central bank, Mankammathora Branch and caused misutilisation of funds. On examination of the records it is disclosed that the former President A.Jogi Reddy independently has transacted the fertilizers and pesticides business with A.P.MARK Fed., and local traders, the transaction of which running into lakhs of rupees, the Secretary as Chief Executive of the Society remained blind folded and silent spectator without bringing the facts to the notice of the Cooperative Department and Financing bank. In view of that, it is indicated that the Secretary has colluded with the Ex-President A.Jogi Reddy and caused heavy loss to the Society.

In view of the aforesaid facts, the Deputy Registrar felt it necessary to initiate disciplinary action against the petitioner and accordingly in exercise of his powers vested under Section 60(1) of the Act 7 of 1964 read with G.O.Ms.No.34, F & A (Coop.IV) Dept., dated 16.01.1989 as amended vide G.O.Ms.No.19, A & C (Cop.IV) Dept, dated 01.02.1995, called upon the petitioner to attend for the enquiry on 07.10.2003 at 11 a.m., along with all the connected records and submit his written statement in his defence for the proposed disciplinary action initiated against the petitioner and accordingly, directed the person-in-Charge of the Society to place the petitioner under suspension. Hence, I am of the opinion that the order passed by the

Deputy Registrar of Co-operative Societies, directing the Society to place the petitioner under suspension is in accordance with the provisions of Section 59 of the Act and I do not find any illegality in the said order and the writ petition is devoid of merits.

The writ petition is accordingly dismissed. No costs.

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V.ESWARAIAH.J

05.11.2004

tjs

ASSISTANT REGISTRAR

To

1 The Divisional Co-operaive Officer, Karimangar (Division) Karimnagar District.
2 The Person-in-Charge/Chairperson PACS Ltd., Vedira post, Mandal Ramadugu, Karimanagar Dist.

3 2CCs to the G.P. for Co-operation, High Court of A.P., Hyderabad. (OUT)

4 2CD copies.